

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. A-03-CA-222-SS
)	Consolidated
ALCOA, INC.,)	
)	
Defendant.)	

NEIGHBORS FOR NEIGHBORS, INC.,)	
ENVIRONMENTAL DEFENSE,)	
PUBLIC CITIZEN INC.)	
)	
Plaintiffs,)	
)	
v.)	Case No. A-01-CA-881-SS
)	
ALCOA, INC.,)	
)	
Defendant.)	

**ORDER GRANTING UNITED STATES' MOTION
TO APPROVE STIPULATION TO RESOLVE
CERTAIN ALLEGED VIOLATIONS OF CONSENT DECREE**

Upon consideration of the United States' Motion for Approval of Stipulation to Resolve Certain Alleged Violations of the Consent Decree in this action, IT IS HEREBY ORDERED the United States' motion is GRANTED. In full resolution of the Plaintiffs' claims that Alcoa did not timely commence construction of the Replacement Sandow Unit as required by Paragraphs 65 through 67 the Consent Decree, and in full resolution of Alcoa's inability to timely commence operation of the Replacement Sandow Unit as required by these same provisions, IT IS FURTHER ORDERED as follows:

1. Within 60 days of the date of this Order, Alcoa shall pay to the United States \$859,000 in stipulated penalties in the manner set forth in Paragraphs 124 and 125 of the Consent Decree, to resolve, in part, violations based on Alcoa's delay in commencing commercial operation of the Replacement Sandow Unit.
2. By December 31, 2006, Alcoa shall complete a permanent shutdown of Sandow Units 1, 2, and 3 at Alcoa's Rockdale, Texas facility (the "Existing Sandow Units") such that those units may not be operated again.
3. The Consent Decree provisions pertaining to the surrender of SO₂ and NO_x allowances shall apply to any emission reductions resulting from the shut down of the Existing Sandow Units by this date.

By January 31, 2008, Alcoa and TXU Sandow shall deliver and unload the second of two boiler steam drums to the construction site for Sandow Unit 5 at Alcoa's Rockdale, Texas facility.

By no later than August 31, 2009, Alcoa and TXU Sandow shall commence commercial operation of the Replacement Sandow Unit in accordance with the 2003 Voluntary Emissions Reduction Permit ("VERP Permit") issued by the Texas Commission on Environmental Quality ("TCEQ") in 2003 and the Subsection C (Installation of Replacement Sandow Units – Option B) of Section IV (Pollution Controls and Reductions) of the Consent Decree.

4. Beginning August 31, 2009, Alcoa and TXU Sandow shall achieve and maintain at the Replacement Sandow Unit a 30-Day Rolling Average NO_x Emission Rate of no less stringent than 0.100 lbs/mmBTU, as set forth in Paragraph 63 of the Consent Decree. Beginning on this same date, Alcoa and TXU Sandow shall also comply with other emission

rates and limitations set forth in the VERP Permit.

5. From August 31, 2008 through February 28, 2010, Alcoa and TXU Sandow Alcoa shall implement a program to optimize NO_x reductions at the Replacement Sandow Unit, as required in the VERP Permit, in addition to any other emission reduction measures set forth in the Consent Decree.
6. Beginning on February 28, 2010, Alcoa and TXU Sandow shall achieve and maintain a 30-Day Rolling Average Emission Rate for NO_x of 0.080 lbs/mmBTU, unless TXU Sandow demonstrates that it is infeasible to achieve and maintain such a rate on a 30-day rolling average basis (including periods of startup and shutdown, but excluding malfunctions, as set forth in the Consent Decree). If Alcoa and TXU Sandow demonstrate that it is infeasible to maintain a 30-Day Rolling Average NO_x Emission Rate of 0.080 lbs/mmBTU, TXU Sandow shall submit to the Plaintiffs for review and approval an alternative NO_x emission rate, which in no case shall be less stringent than 0.100 lb/mmBTU on a 30-day rolling average basis (including periods of startup and shutdown, but excluding malfunctions, as set forth in the Consent Decree).
7. Any disagreement over either TXU Sandow's demonstration of its inability to achieve 0.080 lb/MMBtu, or its alternative proposed NO_x emission rate, shall be subject to the dispute resolution provisions in Section XVI (Dispute Resolution) of the Consent Decree.
8. The Consent Decree provisions pertaining to the monitoring of emissions from the Replacement Sandow Unit and the surrender of NO_x allowances shall apply to any additional emission reductions resulting from these NO_x measures at the Replacement Sandow Unit.
9. By December 31, 2006, TXU Sandow shall submit to TCEQ, with a copy to the United States, a complete application for a permit or permit modification to install a selective catalytic reduction system ("SCR") at Sandow Unit 4 on Alcoa's Rockdale, Texas facility.

In its application, TXU Sandow shall propose a 30-Day Rolling Average NO_x Emission Rate of no less than 0.080 lbs/mmBTU, including periods of startup and shutdown, but excluding malfunctions, as provided in the Consent Decree. If permitted by TCEQ, TXU Sandow shall commence operation of the SCR by June 1, 2010, and shall operate such control device at all times that Sandow Unit 4 is in operation, consistent with the technological limitations, manufacturers' specifications, and good engineering and maintenance practices for the SCR.

The United States has informed the Court that it supports the installation and operation of an SCR at Sandow 4 and agrees that SCR is a technologically practicable and feasible control for NO_x emissions on pulverized lignite fired units.

10. Upon the commencement of operation of the SCR at Sandow 4, TXU Sandow shall achieve and maintain a 30-Day Rolling Average NO_x Emission Rate that is no less stringent than 0.080 lb/mmBTU. TXU Sandow shall monitor its NO_x emissions at Sandow 4 in accordance with the provisions in Paragraphs 75-77 of the Consent Decree. The emission reductions from the operation of an SCR at Sandow Unit 4 shall not be subject to the prohibition on selling or trading NO_x allowances in Paragraph 88 of the Consent Decree; these prohibitions shall apply only to the Consent Decree's obligations at Sandow 5 and the Existing Sandow Units, and the Replacement Sandow Unit. Provided, however, that neither Alcoa nor TXU Sandow shall use any of the emission reductions under this Order to "net out" of New Source Review at other electricity generating units, as prohibited in Paragraph 91 of the Consent Decree.
11. If TCEQ declines to issue a permit authorizing the installation and operation of an SCR at Sandow Unit 4, TXU Sandow will be relieved of its obligation to install and operate an SCR at Sandow Unit 4.

12. Commencing at the conclusion of the first calendar quarter following entry of this Order, Alcoa and TXU Sandow shall submit quarterly reports to the Court and the Plaintiffs that document their actions to achieve and maintain compliance with this Order. Such reports shall include the identification of any noncompliance with any requirement of this Order and shall advise the Court of any anticipated noncompliance with this Order.
13. The Court retains its full authority to adopt any measure necessary to remedy any noncompliance with this Order, or to avoid any anticipated noncompliance with this Order, including its power to find any such noncompliance to be contempt and to order appropriate monetary sanctions; provided, however, that prior to September 1, 2011, the Court will not entertain a motion by any Plaintiff to require Alcoa or TXU Sandow to abandon construction of the Replacement Sandow Unit pending application for and approval of a permit from the State of Texas other than the VERP.
14. In considering Alcoa's and TXU Sandow's compliance with this Order, the Court will apply the Force Majeure provisions in Section XV (Force Majeure) of the Consent Decree, except that unanticipated and unreasonable delays by TCEQ in reviewing and considering TXU Sandow's permit application for an SCR at Sandow Unit 4, including requests for modifications of the application, will be presumed to qualify as Force Majeure events, subject to the right of Plaintiffs to rebut this presumption, if TXU Sandow has complied with all the substantive requirements in Paragraph 134 of the Consent Decree concerning its application for a permit for the SCR at Sandow Unit 4.
15. In addition to the provisions set forth in Section XXII (Termination) of the Consent Decree, neither Alcoa nor TXU Sandow shall seek termination of the Consent Decree until they have
(a) completed 18 months of operating the Replacement Sandow Unit and Sandow Unit 4 in

compliance with the emission rates and limitations in the Consent Decree, the VERP Permit, and this Order, including the revised NO_x rate established for the Replacement Sandow Unit, and (b) included these rates and limitations, along with those established by the Consent Decree, into a site-specific amendment to the Texas State Implementation Plan.

Signed this _____ day of _____, 2006.

SAM SPARKS
UNITED STATES DISTRICT JUDGE